

October 07, 2016

Morris Bart & Associates Ltd
1712 15th St Ste 300
Gulfport MS 39501-2140

State Farm Auto Claims
PO Box 106171
Atlanta GA 30348-6171

RE: Claim Number: 24-819L-978
Date of Loss: February 15, 2016
Our Insured: Devalera F McGlothin
Claimant Name: Biloxi Fire Department
Policy Number: 086799824A
Your client: Jessica McGlothin

To Scott Bishop:

Thank you for your letter dated October 7, 2016.

As we understand it, the accident occurred on I-10 at or near the southbound drawbridge in Biloxi, Mississippi, between a vehicle driven by Andrew Mason, an on-duty City of Biloxi fire fighter, and a vehicle driven by Jessica McGlothin. The City of Biloxi has denied the McGlothins' claim asserting sovereign immunity, and subsequently you submitted a claim for uninsured motorist coverage on behalf of Jessica McGlothin.

As you know, an insured is entitled to recover uninsured motorist benefits only for those amounts he or she is legally entitled to recover from the uninsured motorist. An uninsured motorist carrier is entitled to assert any defenses that would be available to the uninsured motorist, including a defense of sovereign immunity. *City of Jackson v. Perry*, 764 So. 2d 373 (Miss. 2000); *Coleman v American Manufactures Mut. Ins. Co.*, 930 F. Supp. 252 (N.D. Miss. 1995). As such, unless Jessica McGlothin would be legally entitled to recover from Fire Fighter Mason or the City of Biloxi, there would likewise be no claim for uninsured motorist coverage available.

In this case, the City of Biloxi has asserted a sovereign immunity defense on behalf of itself and its fire fighter. The fire fighter and the City of Biloxi are immune "unless the employee acted in reckless disregard of the safety and well-being of any person not engaged in criminal activity at the time of the injury." Miss. Code Ann. 11-46-9(1)(c). Based upon the facts we have at this point, it does not appear to be a case of "reckless disregard".

Please feel free to send me any other information you would like me to consider.

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Sincerely,

Sean Bielinski
Claim Specialist
(844) 292-8615 Ext. 315
Fax: (855) 820-6318
N/E

State Farm Mutual Automobile Insurance Company